Tafas v. Dudas et al
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EXHIBIT 3

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Divisionals

- Only involuntary divisionals to be permitted:
  - Prior application subject to unity of invention (PCT Rule 13) requirement or restriction requirement (35 USC 121); and
  - Divisional contains only claims to inventions identified in the requirement and not elected in prior-filed application
- Divisional application may claim the benefit of only a single prior-filed nonprovisional application.

Highlights of Proposed Continuation NPR (cont)

DIVISIONAL APPLICATIONS

- Are only permitted if the Office imposes a restriction, or lack of unity, requirement in the parent application and the claimed invention was not elected in the parent.
  - Thus "involuntary" divisionals would be permitted; and "voluntary" divisionals would not be permitted.
- Can only claim the benefit of a single parent application, which had the restriction, or lack of unity, requirement, unless a timely petition (with a satisfactory showing that the amendment, argument of evidence could not have been submitted during the prosecution of the prior filed application) is submitted.
- A single continuation or RCE of each divisional application will be permitted (without petition).

Highlights of Proposed Continuation NPR (cont)

DIVISIONAL APPLICATIONS

- Are only permitted if the Office imposes a restriction, or lack of unity, requirement in the parent application and the claimed invention was not elected in the parent.
  - Thus "involuntary" divisionals would be permitted; and "voluntary" divisionals would not be permitted.
- Can only claim the benefit of a single parent application, which had the restriction, or lack of unity, requirement,
  unless a timely petition (with a satisfactory showing that the amendment, argument of evidence could not have been submitted during the prosecution of the prior filed application) is submitted.
- A single continuation or RCE of each divisional application will be permitted (without petition).

Proposed Changes to 37 CFR 1.78(d)(1)

Benefit Claims under 35 USC 120, 121, or 365(c)

Permitted Condition 2 (proposed § 1.78(d)(1)(ii)):

- A divisional application may claim the benefit of only a single prior-filed nonprovisional application, provided:
  - The prior-filed application was subject to a requirement of unity of invention under PCT Rule 13, or a requirement for restriction under 35 USC 121, and
  - The divisional application contains only claims directed to an invention or inventions that were identified in such requirement but were not elected for examination in the prior-filed application.
- Thus, only "involuntary" divisional applications are permitted.

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